

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

SEP 16 1998

DOCKET FILE COPY ORIGINAL

In the Matter of

)

) CC Docket No. 95-116

Telephone Number Portability

)

REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC.

U S WEST Communications, Inc. ("U S WEST"), through counsel and pursuant to the Federal Communications Commission's ("Commission") Third Report and Order on Telephone Number Portability ("Cost Recovery Order"),¹ hereby files its reply to comments on joint local number portability ("LNP") costs.

I. INTRODUCTION

Seven parties -- six large local exchange carriers ("LEC")² and AT&T Corp. ("AT&T") filed comments on the appropriate portion of joint cost which should be classified as "carrier-specific costs directly related to providing number portability" (i.e., Type 2 costs). As a group, the LECs support U S WEST's position that all or some portion of the following costs should be classified as "Type 2" costs:

- costs associated with accelerating switch replacements as a result of implementing LNP;³

¹ In the Matter of Telephone Number Portability, CC Docket No. 95-116, RM 8535, Third Report and Order, FCC 98-82, rel. May 12, 1998.

² BellSouth Corporation and BellSouth Telecommunications, Inc. ("BellSouth"), GTE Service Corporation ("GTE"), U S WEST, SBC Communications Inc. ("SBC"), Bell Atlantic and Ameritech.

³ E.g., see, GTE at 3-4; Bell Atlantic at 3; BellSouth at 7-12. While Sprint did not file comments on the apportionment of joint costs, it did ask the Commission to clarify that carrying charges associated with accelerated switch replacements are

024

- costs associated with purchasing generic switch software to provide LNP capability;⁴
- costs associated with incremental investments in SS7 networks to accommodate LNP implementation;⁵
- costs associated with modifying and expanding OSSs to accommodate LNP.⁶

On the surface, AT&T appears to support the position of the LECs by arguing that if an expense would not have been incurred but for the deployment of LNP it should be classified as a carrier-specific LNP cost which is recoverable. However, AT&T's comments make it clear that few LNP costs would be found to be recoverable under AT&T's biased application of the "but for" test. For example, AT&T would not attribute any OSS costs to LNP⁷ even though numerous modifications must be made to existing OSSs in order for numbers to be ported between carriers.⁸ The Commission should reject AT&T's narrow interpretation of the "but for" test as contrary to both the spirit and the letter of the 1996 Act.

the direct result of LNP deployment. See Petition of the Sprint Local Telephone Companies for Reconsideration and Clarification filed July 29, 1998, CC Docket No. 95-116 at 4-5.

⁴ E.g., see, GTE at 6; Ameritech at 14 and Appendix F; BellSouth at 12.

⁵ E.g., see, BellSouth at 17; Ameritech at 13 and Appendix D; Bell Atlantic at 5-6.

⁶ E.g., see, SBC at 5; Bell Atlantic at 3-5; BellSouth at 12-14.

⁷ AT&T at 5.

⁸ In opposing Sprint's request for clarification that costs associated with accelerated switch replacements are direct LNP costs, AT&T implies that it would find virtually all such costs to be "general upgrades" not attributable to LNP. See AT&T Opposition to Petitions for Reconsideration, filed Sep. 3, 1998, CC Docket No. 95-116 at 8-9.

If the Commission adopts the positions put forth by AT&T, incumbent LECs will be placed in the untenable and illogical position of being forced to expend vast sums to implement LNP -- but deprived of the opportunity to recover most of these costs because these costs would not have been deemed "carrier-specific costs directly related to providing number portability." Such an outcome would violate both Section 251(e) of the Act and the Commission's competitive neutrality test⁹ and could not be sustained.

The Commission should recognize that, as U S WEST pointed out in its comments,¹⁰ incumbent LECs have no incentive to maximize their LNP costs. Most LNP costs will be recovered through a temporary end-user surcharge levied on customers who remain with incumbent LECs. These LECs cannot recover their LNP costs from the primary beneficiaries of LNP -- competitive LECs and their customers. As such, it would make no sense for an incumbent LEC to inflate its LNP costs as AT&T suggests.¹¹

II. THE COSTS OF MULTI-FUNCTIONAL SOFTWARE SHOULD BE ALLOCATED BASED ON THE INDIVIDUAL CIRCUMSTANCES OF LECS

⁹ Cost Recovery Order ¶ 53.

¹⁰ U S WEST Comments at 4-5.

¹¹ U S WEST will not address the issue of general overhead loadings in this proceeding. This issue is currently the subject of petitions for reconsideration of the Cost Recovery Order and is most appropriately addressed in that proceeding. In comments filed today in response to oppositions/comments on petitions for reconsideration, U S WEST supports the inclusion of general overhead loadings in the LNP query charge and responds to AT&T's gross mischaracterization of overhead loadings included in U S WEST's LNP query charge tariff. See U S WEST Reply at 7-10.

Bell Atlantic and GTE propose industry-wide approaches to allocating the costs of multi-functional switch software between LNP and other capabilities. GTE suggests that a work group composed of vendors and carriers propose an allocation for each major generic software release that is needed for LNP.¹² Bell Atlantic proposes a similar allocation procedure based on the costs of individual feature packages which accompany the generic software.¹³ While the intent of GTE and Bell Atlantic to simplify the allocation of multi-functional software costs is admirable, such industry-wide proposals ignore the individual circumstances of incumbent LECs and the true costs of LNP. As U S WEST noted in its Comments, it expects to purchase new software generics for many central offices for one purpose -- to provide local number portability.¹⁴ But for the LNP requirement, U S WEST would not purchase new generic software for many switches for the foreseeable future. In such cases (and where it is uneconomical to market and deploy new software-based services),¹⁵ the entire cost of multi-functional software should be directly attributed to LNP. Clearly, the use of industry-wide allocation factors would lead to an understatement in LNP costs in such instances. As such, U S WEST believes that it is most appropriate to assign the costs of multi-functional software based on the individual circumstances of incumbent LECs.

III. CONCLUSION

¹² GTE at 6.

¹³ Bell Atlantic at 7.

¹⁴ See U S WEST Comments at 10-12.

¹⁵ See id. at note 22.

The parties to this proceeding -- including AT&T -- acknowledge that some portion of "joint" costs should be classified as "carrier-specific costs directly related to providing number portability" and recovered through end-user surcharges. U S WEST urges the Commission to consider individual company circumstances in determining how such costs should be allocated between LNP and other capabilities/functionalities.

Respectfully submitted,

U S WEST COMMUNICATIONS, INC.

By:

James T. Hannon
James T. Hannon
Suite 700
1020 19th Street, N.W.
Washington, DC 20036
(303) 672-2860

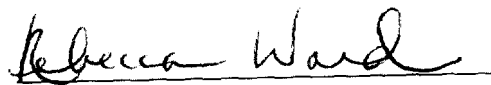
Its Attorney

Of Counsel,
Dan L. Poole

September 16, 1998

CERTIFICATE OF SERVICE

I, Rebecca Ward, do hereby certify that on this 16th day of September, 1998, I have caused a copy of the foregoing **REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC.** to be served, via first class United States Mail,* postage pre-paid, upon the persons listed on the attached service list.


Rebecca Ward

*Served via hand delivery

*William E. Kennard
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, DC 20554

*Michael K. Powell
Federal Communications Commission
Room 844
1919 M Street, N.W.
Washington, DC 20554

*Susan P. Ness
Federal Communications Commission
Room 832
1919 M Street, N.W.
Washington, DC 20554

*Jane E. Jackson
Federal Communications Commission
Room 518
1919 M Street, N.W.
Washington, DC 20554

*Neil Fried
Federal Communications Commission
Room 518
1919 M Street, N.W.
Washington, DC 20554

*Gloria Tristani
Federal Communications Commission
Room 826
1919 M Street, N.W.
Washington, DC 20554

*Harold Furchtgott-Roth
Federal Communications Commission
Room 802
1919 M Street, N.W.
Washington, DC 20554

*Kathryn C. Brown
Federal Communications Commission
Room 500
1919 M Street, N.W.
Washington, DC 20554

*Lloyd Collier
Federal Communications Commission
Room 518
1919 M Street, N.W.
Washington, DC 20554

*International Transcription
Services, Inc.
1231 20th Street, N.W.
Washington, DC 20036

Joel B. Shifman
Maine Public Utilities Commission
18 State House Station
242 State Street
Augusta, ME 04333-0018

John F. Raposa
GTE Service Corporation
HQE03J27
600 Hidden Ridge
POB 152092
Irving, TX 75015-2092

Gail L. Polivy
GTE Service Corporation
Suite 1200
1850 M Street, N.W.
Washington, DC 20036

Robert M. Lynch
Durward D. Dupre
Hope Thurrott
SBC Communications Inc.
Room 3023
Dallas, TX 75202

M. Robert Sutherland
Stephen L. Earnest
BellSouth Corporation
Suite 1700
1155 Peachtree Street, N.E.
Atlanta, GA 30309-3610

Mark C. Rosenblum
Roy E. Hoffinger
James H. Bolin, Jr.
AT&T Corp.
Room 3247H3
295 North Maple Avenue
Basking Ridge, NJ 07920

Larry A. Peck
Frank M. Panek
Ameritech
Room 4H86
2000 West Ameritech Center Drive
Hoffman Estates, IL 60196-1025

John M. Goodman
Bell Atlantic
1300 I Street, N.W.
Washington, DC 20005